

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of February 28, 2013

Members Present

Jeffrey Staub
Watson Fisher
Sara Jane Cate
Alan Hanson

Also in Attendance

James Turner
Dianne Moran

Continuation of Docket 1329

Applicant: Todd Gelbaugh, DAG, LP

Address: 4636 Jonestown Road
Harrisburg, PA 17109

Property: 4636 Jonestown Road
Harrisburg, PA 17112

Interpretation: Section 402.A.39.a – Additional requirements for outdoor recreation uses requiring minimum separation from dwellings and residential properties: “All buildings, pavilions and areas used for nighttime activities shall be a minimum of 150 feet from an existing dwelling on another lot. All parking areas shall be setback a minimum of 75 feet from any residential lot line.”
The applicant proposes to create a bumper car attraction on the properties known as 9 Care Street and 4636 Jonestown Road.

Grounds: Section 402.A.39.a of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: December 31, 2012

Property Posted: February 19, 2013

Advertisement: Appeared in The Paxton Herald on February 13, 2013 and February 20, 2013.

The hearing began at 7:02 p.m.

Mr. Freeburn explained that Mr. Hansen and Mr. Fisher sat in on the initial hearing held for this docket. He noted that they are present to vote on this hearing.

Mr. Freeburn questioned who was present to for applicant. Ron Lucas explained that he is the attorney representing the applicant.

Mr. Freeburn questioned if everything that was reviewed at the original hearing remains the same. Mr. Lucas answered yes. Mr. Freeburn questioned if there were any changes. Mr. Lucas answered that there were no changes. Mr. Freeburn questioned if Mr. Lucas had anything to add to the application. Mr. Lucas answered that he presented everything that evening to the Zoning Hearing Board and the hearing was continued for the proper advertisement due to the amendment of Exhibit 1.

Mr. Freeburn questioned if anyone in the audience wished to be heard on this application. No response was given.

Mr. Turner noted that the Zoning Hearing Board must take another vote to reaffirm the decision that was made last month. Mr. Freeburn called for the roll call vote to reaffirm the decision that was made last month from those members who were in attendance.

Mr. Turner conducted a roll call vote: Mr. Fisher, aye; Mr. Hansen; aye; Mrs. Cate, aye, and Mr. Staub, aye.

The hearing ended at 7:04 p.m.

Submitted by:

Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
TODD GELBAUGH and : DOCKET NO. 1329
DAG, L.P. :

DECISION GRANTING VARIANCE
AND MODIFYING PREVIOUS VARIANCE

The applicant seeks a variance and modification of conditions on a previous variance in connection with the creation of a bumper car facility. A hearing on the application was held on January 10, 2013 and on February 28, 2013 for advertising and public notice purposes only. No new testimony was taken at the February 28, 2013 hearing.

Facts

1. The applicant and owner of the property in question is Todd Gelbaugh d/b/a DAG, L.P. of 4636 Jonestown Road, Harrisburg, Pennsylvania 17109. The applicant was represented at the hearing by Ronald Lucas, Esquire. Also appearing on behalf of the applicant was Thomas Wilson, site manager.
2. The property in question consists of three adjoining parcels which combine to form an irregular L-shaped tract with frontage on Jonestown Road and Care Street. The Jonestown Road parcel is 150 feet wide and extends in depth between 360 and 380 feet. The two Care Street properties have several hundred feet of frontage and extend to the east approximately 200 feet to meet the Jonestown Road parcel. The property is zoned C-G.
3. The Jonestown Road property is improved with a commercial building and related parking from which the applicant operates a seasonal frozen custard business. To

the rear of the Jonestown Road property and extending into the southern-most parcel on Care Street the applicant has erected a miniature golf course and batting cages. Pursuant to a previously granted variance the applicant was to erect a fence along the southern boundary of 9 Care Street to screen the parcel from the commercial activity.

4. Subsequent to the previous hearing the applicant has acquired 9 Care Street and he proposes to use a portion of that property in connection with his existing business. Consequently he erected the screening fence along the southern property line of 13 Care Street which is also owned by the applicant.

5. The applicant proposes to erect a bumper car amusement facility on the eastern end of the Care Street properties along with an associated parking lot. The facility will be setback 25 feet from the existing residence at 9 Care Street and 113 feet from the residence at 15 Care Street.

6. The bumper car site would be an enclosed structure with garage type doors. The cars operate silently and have inner-tube type cushioning so collision sounds are minimal.

7. The properties at 13 and 15 Care Street are above the proposed facility with the common property line at the top of a steep bank.

8. Hours of operation of the bumper car facility would be 10:00 a.m. to 11:00 p.m.

9. Notice of the hearing was posted and advertisement made as required by the ordinance.

10. No one other than the applicant appeared to testify either in favor of or against the proposed variance.

Conclusions

1. Article 402.A.39 of the ordinance requires a 150 feet separation for outdoor recreation uses from existing residential uses. The proposed bumper car facility would violate this section of the ordinance. In addition, a previously granted variance required the placement of a screening fence along the border with 9 Care Street. Per the ordinance a 20 feet landscape area would be required between this fence and the property line. The proposed facility would violate these sections of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship in that the existing lots are so small and subdivided as to preclude development for uses allowed under the ordinance. By consolidating lots the applicant is improving this situation but given the density of the neighborhood this use would be impossible without variance.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The bumper car facility will have no more impact than other permitted commercial activities which could be developed on the site. Further, moving the fence to the location proposed by the applicant will better protect the remaining residential uses not owned by the applicant. The fence will be of

the greatest benefit at the top of the hill in terms of shielding 13 Care Street and 15 Care Street.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variances requested should be and are hereby granted allowing the development of the bumper car facility at the location designated in the exhibits submitted by the applicant on the following conditions:

a) the applicant shall install plantings in accordance with a plan approved by the Zoning Officer along the fence separating 13 Care Street from 9 Care Street from the southwest corner of 13 Care Street to a point opposite the western end of the bumper car facility pad site. The Board modifies the previously granted variance to reflect this location of the fence.

b) garage doors on the Care Street side of the facility shall be closed not later than 10:00 p.m.;

In all other respects the facility shall be erected and operated in strict conformity with the plans and testimony submitted to the Board.

Date: 2/28/13

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



Jeffrey W. Staub



Sara Jane Cate



Watson Fisher

Board Alternate Allan Hansen dissents from the decision.

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of February 28, 2013

Members Present

Richard Freeburn
Jeffrey Staub
Gregory Sirb
Sara Jane Cate
Alan Hanson

Also in Attendance

James Turner
Dianne Moran

Docket 1330

Applicant: Jason and Tammy Burkhart

Address: 4098 McIntosh Road
Harrisburg, PA 17112

Property: 4098 McIntosh Road
Harrisburg, PA 17112

Interpretation: Article 307 – Dimensional Requirements in Residential Districts, R-1 Minimum Rear Yard Setback. The minimum rear yard setback shall be thirty (30) feet. The applicant proposes an addition that would encroach approximately six feet into the rear yard setback

Grounds: Article 307 of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: January 28, 2013

Property Posted: February 19, 2013

Advertisement: Appeared in The Paxton Herald on February 13, 2013 and February 20, 2013.

The hearing began at 7:50 p.m.

Mr. Freeburn questioned who was present for applicant. Mr. Jason Burkhart noted that he was the applicant. Mr. Freeburn swore in Mr. Jason Burkhart who resides at 4098 McIntosh Road.

Ms. Freeburn noted that Ms. Moran was under oath from a previous testimony.

Mr. Freeburn questioned if all the fees have been paid for the hearing. Ms. Moran noted that the fees were paid on January 28, 2013 and the hearing was posted in The Paxton Herald on February 13 and 20, 2013. She noted that the property was posted on February 19, 2013.

Mr. Freeburn questioned what codified ordinance pertains to the application. Ms. Moran answered that Article 307 – Dimensional Requirements in Residential Districts, R-1 Minimum Rear Yard Setback. The minimum rear yard setback shall be thirty (30) feet. The applicant proposes an addition that would encroach approximately six feet into the rear yard setback

Mr. Freeburn noted that it is customary for the Board to enter copies of the application and site plan as exhibits and he questioned Mr. Burkhart if he had any objections to this. Mr. Burkhart answered no.

Mr. Freeburn requested the applicant to tell the Board what he wants to do and why the variance should be granted.

Mr. Burkhart noted that the variance is relatively minor and meets the parameters set forth in the zoning ordinances as well as the newly enacted storm management requirements. He noted that the southwest corner of the home presently sits on the 10 foot rear setback line. He noted in order to adequately increase the size of his home; he would extend beyond the setback four to six feet for 15% of the proposed addition. He noted that there is a unique physical condition being the position as it currently sits on a triangular lot, with the south rear corner of the original build of the house resting on the rear set back line. He noted that this is a condition that goes back to the time when the lot was created and predates the ordinance.

Mr. Burkhart noted that due to the rear shallowness of his lot and the fact that the house already sits on the set back line, as well as the storm water management requirements, he is prevented from adding an addition that conforms to the current ordinance on any other side of the house.

Mr. Burkhart noted that the property is irregularly shaped, as recorded on the original subdivision plat. The shape of the lot is beyond his control and it was that way when he purchased the property in 1994. He noted that the land directly adjacent is currently undeveloped.

Mr. Burkhart noted that the requested variance will not alter the essential character of the neighborhood, but instead increase the value of the lot as well as the other homes in the neighborhood. He noted that it will not infringe on any neighbor's residential properties, nor would it impose any hardship on any neighbor's property values.

Mr. Burkhart noted that the variance is sought is the minimum amount of relief necessary as less than 15% of the proposed addition will encroach the setback line approximately six feet. He noted that he has fulfilled the Township regulations in seeking this variance approval as well as compliance with the newly enacted storm water management requirements. He noted that

drawings and plans prepared by Yingst Engineers have been approved by the Township Engineer.

Mr. Freeburn questioned if Mr. Burkhart had any photographs. Mr. Burkhart presented photographs to Mr. Freeburn.

Mr. Sirb questioned Mr. Burkhart what type of addition he was planning to build. Mr. Burkhart answered that it is 1,100 square foot to be used as living space. He noted that it would include two bedrooms and a bathroom.

Mr. Sirb questioned Ms. Moran if the abutting property is vacant and R-1. Ms. Moran answered that it is vacant but it may be Residential Cluster as it is owned by the DiSanto's. Mr. Burkhart noted that the strip of land that is between Mike Valenti and his property will not be developed as it is too narrow. He noted that he was offered to buy it several years ago but he did not choose to purchase it.

Mr. Sirb questioned if that property could be developed. Ms. Burkhart noted that she was told that it could not be developed as it was too narrow. Mr. Burkhart noted that it is open space. Ms. Moran noted that she did not know if it was green space. Mr. Sirb noted that it appears to be green space. Mr. Burkhart noted that it was proposed on the plan originally.

Mr. Freeburn swore in Mrs. Tammy Burkhart and requested that the testimony that she gave was true. Ms. Burkhart responded that it was.

Mr. Burkhart noted that because he is over the 1,000 square feet limit, he is required to develop a storm water management plan. He noted that he went ahead and did that and that plan hindered where he could place the addition as the storm water plan must be located at a certain distance from his well. Mr. Freeburn noted that it is the irregular shape of the lot that is causing the issue. Mr. Burkhart noted that it is complicated since the rear wall of his home sits on the setback line. He noted that he tried to turn the addition, noting that he would not have been able to but the addition on in a straight manner. He noted that he tried to angle it but he has a wedge so he had to do something with it and ended up having to put in windows to bump it out further.

Mr. Hansen questioned if any thought was given to install a second story level. Mr. Burkhart noted that he talked about doing that but it would not have been possible to put a staircase in. He noted that it would have been too much work on the lower level to install a second story.

Mr. Freeburn questioned if anyone in the audience wished to be heard on this application. No response was given.

Mr. Freeburn noted that the Board has 45 days to render a decision

Zoning Hearing Board

Docket 1330

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Mr. Sirb made a motion to approve the application of Jason and Tammy Burkhart. Mr. Hansen seconded the motion. Mr. Turner called for a roll call vote: Mr. Hansen, aye; Mr. Staub; nay; Mr. Sirb, aye; Mrs. Cate, aye, and Mr. Freeburn, aye.

The hearing ended at 8 p.m.

Submitted by:



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
APPLICATION OF : TOWNSHIP ZONING HEARING BOARD
JASON AND TAMMY : DAUPHIN COUNTY, PENNSYLVANIA
BURKHART :
: DOCKET NO. 1330
:

DECISION GRANTING VARIANCE

The applicants seek a variance from rear yard setback requirements. A hearing on the application was held on February 28, 2013.

Facts

1. The applicants and owners of the property in question are Jason and Tammy Burkhardt of 4098 McIntosh Road, Harrisburg, Pennsylvania 17112.
2. The property in question is located on the northwest corner of Valley View Road and McIntosh Road and consists of a long and narrow triangular parcel with a total area of 20,570 square feet. The parcel is zoned Residential, R-1.
3. The property is improved with a single family dwelling located at the southern end of the lot. The house is set at an angle to the street and is setback ten feet from the rear property line in accordance with the original subdivision plan.
4. The applicants propose to erect an addition to the southern end of the existing dwelling. The addition would extend to within four feet of the rear property line.
5. The applicants are unable to extend the dwelling in other directions due to the location of the existing well and to the need for storm water management areas.
6. Notice of the hearing was posted and advertisement made as required by the ordinance.

7. No one other than the applicants appeared to testify either in favor of or against the proposed variance.

Conclusions

1. Article 307 of the ordinance requires a minimum rear yard setback of thirty feet. The proposed construction would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship not created by the owner consisting of its irregular shape, narrow lot width and limited lot area. These factors make impossible any further development of the parcel without variance.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The adjoining parcel is undeveloped and will likely remain so and the addition is in keeping with the style of the existing home.

LOWER PAXTON TOWNSHIP ZONING HEARING BOARD

Meeting of February 28, 2013

Members Present

Richard Freeburn
Jeffrey Staub
Gregory Sirb
Sara Jane Cate
Alan Hanson

Also in Attendance

James Turner
Dianne Moran, Planning and Zoning Officer

Docket 1331

Applicant: Sheetz, Inc

Address: 5700 Sixth Avenue
Altoona, PA 16602

Property: 4001 Union Deposit Road
Harrisburg, PA 17112

Interpretation: Article 714.A Freestanding sign – The maximum area of a freestanding sing shall be forty (40) feet. The applicant proposes a freestanding sign with a total sign area of 65.67 square feet.

Article 714.A Canopy Service Station – Maximum areas per side: 25 square feet and Number Permitted: 1 per canopy side, on up to three sides. The applicant proposes two canopy signs on two side of the service station canopy but each will have a maximum area of 35.5 square feet.

Article 714.A Wall Sign – Wall signs shall be allowed on up to two sides of a building. Number permitted: 2 per establishment per side of a building. The applicant proposes a total of five wall signs as follows: 3 Sheetz awning signs @ 21.63 square feet each; 1 wall MTO sign @ 21.47 square feet; 1 wall Coffee sign @ 16.78 square feet. Sheetz is proposing that one wall sign be located on a third wall of the building requiring a variance.

Article 714.A – Instructional Signs – Number Permitted: 4 per parcel and Height: 4 feet. The applicant proposes a total of five instructional signs which includes one off-premise sign previously placed identifying the Fairfield Inn. Sheetz is requesting a variance from the height restrictions of the instructional signs for safety purposes as well.

Grounds: Section 402.A.39.a of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: January 28, 2013

Property Posted: February 19, 2013

Advertisement: Appeared in The Paxton Herald on February 13, 2013 and February 20, 2013.

The hearing began at 7:04 p.m.

Mr. Freeburn swore in Mike LaCesa, 5700 6th Avenue, Altoona, Pennsylvania, Director of Real Estate for Sheetz; and Brian Soyka, 5700 6th Avenue, Altoona, Pennsylvania, Engineering and Permit Manager for Sheetz.

Mr. Freeburn noted that Ronald Lucas, Stevens and Lee Law Firm, counsel for the applicant was also present.

Mr. Freeburn swore in Dianne Moran, Planning and Zoning Officer for the Township.

Mr. Freeburn questioned what codified ordinances pertain to this application. Ms. Moran answered: Article 714.A Freestanding sign – The maximum area of a freestanding sign shall be forty (40) feet; Article 714.A Canopy Service Station – Maximum areas per side: 25 square feet and Number Permitted: 1 per canopy side, on up to three sides; Article 714.A Wall Sign – Wall signs shall be allowed on up to two sides of a building. Number permitted: 2 per establishment per side of a building; and Article 714.A – Instructional Signs – Number Permitted: 4 per parcel and Height: 4 feet.

Mr. Freeburn noted that the applicant could proceed to explained what they desire to do and why the variance should be granted.

Mr. Lucas noted that he had an additional list of Exhibits for the Zoning Hearing Board members.

Mr. Sirb questioned what would be the difference between the Sheetz located on Linglestown Road and this Sheetz to be built on Union Deposit Road. Mr. Lucas noted that it is similar in nature but he would relate it more to the Sheetz that was built on Allentown Boulevard on the former Geo's Restaurant site. He noted that it is similar architecture; however, they recently remodeled the Sheetz located on Linglestown Road. He noted that the logos and the color of the building will be very similar. Mr. Sirb questioned if the canopy is similar. Mr. Lucas answered that LED lighting was used.

Mr. Sirb noted that Sheetz came to the Zoning Hearing Board for it to hear the application for the changes at the Linglestown Road site, when they added the restaurant and the additional canopy. He noted that he wants to be able to get a visual of what we are talking about here.

Mr. Lucas noted that he has elevations in the packet and visuals of the building. He noted along with the Sheetz application, there was a narrative attached, and he submitted tabs with plans and photographs. He noted that he would be referring to those as the new hearing exhibits.

Mr. Lucas questioned Mr. LaCesa if Sheetz has a lease with the Dommel Family Limited Partnership who owns the property of the former "Your Place" site on Union Deposit and Briarsdale Roads. Mr. LaCesa stated that is correct.

Mr. Lucas noted that Mr. LaCesa has already received a Conditional Use from the Township for an auto service station and preliminary and final and land development approval in 2012. Mr. LaCesa stated that is correct.

Mr. Lucas noted that the Zoning Officer identified all the zoning variance requests that were summarized at the back of the narrative on page five. He noted that the first deals with a preceding sign. He noted that Tab A is a site layout plan showing the site at Union Deposit Road and for orientation purposes, Union Deposit Road would be up or north and Briarsdale Road would be to the right. Mr. LaCesa stated that was correct.

Mr. Lucas noted to the other side of Briarsdale Road there is a McDonalds Restaurant. Mr. LaCesa Stated yes. Mr. Lucas noted down Briarsdale Road beside the Sheetz would be the Fairfield Inn. Mr. LaCesa stated that was correct.

Mr. Lucas noted to the left on the south side of Union Deposit is the Metro Bank located in Susquehanna Township. Mr. LaCesa stated that was correct.

Mr. Lucas noted that the Township line is in the back part of this property. Mr. LaCesa answered that was correct.

Mr. Lucas noted that the second sheet shows the free standing sign that is proposed. Mr. LaCesa answered that was correct. Mr. Lucas noted that it complies with the maximum height of 20 feet, correct. Mr. LaCesa answered that was correct.

Mr. Lucas noted that the requested variance is from the 40 square foot area to less than 66 square feet for the total sign, correct. Mr. LaCesa answered that was correct.

Mr. Lucas noted that the two gasoline price signs total area is 38 square feet and the name Sheetz, located on the top would be 28 square feet adding to a total request of 66 square feet. Mr. LaCesa answered that was correct.

Mr. Lucas questioned why you have two fuel price signs. Mr. LaCesa answered that it is customary for Sheetz to post two different fuel prices, always posting the 87 octane unleaded, as it is the cheapest price and primarily what folks look for these days. He noted the other price that he puts up is the auto-diesel price. He explained in the past five years, car manufacturers are getting into making more diesel cars and only certain places like Sheetz offer that fuel. He noted that it is important for motorists to know that they can get diesel fuel at his facility.

Mr. Lucas noted that the last Sheetz constructed in the Township was on Allentown Boulevard, the former Geo's Restaurant site. He questioned if it has diesel. Mr. LaCesa answered that it does not; he noted that they sell gasoline and a flex fuel called E-85.

Mr. Lucas noted that the exhibit sign that is there now, that is in the packet under Exhibit B, is a photograph showing the "Your Place" freestanding sign there today. Mr. LaCesa answered that it is a very large sign that has been there for a number of years. Mr. Lucas questioned if it would come down with the approval of the new signage. Mr. LaCesa answered that was correct.

Mr. Lucas noted that he provided examples of other signage for the area, such as the McDonalds at Briarsdale Road. Mr. LaCesa answered yes. Mr. Lucas noted that the next sign is located in Susquehanna Township, neighboring properties to the west. Mr. LaCesa answered that was correct. Mr. Lucas noted that the Metro Bank sign is shown as well as the Gulf Station that is across from Union Deposit Road. Mr. LaCesa explained that it shows some signage on the canopy as well as a large free standing sign. Mr. Lucas noted that the next picture from the other direction shows the canopy from east of there and the next drawing shows a large interstate sign. Mr. LaCesa noted that it is an additional sign that is very large in size and out close to I-83. Mr. Lucas noted that the last photograph is Lowe's across the street. Mr. LaCesa noted that it is to the north. Mr. Lucas noted that the proposed sign will not be as high and will be smaller than that. Mr. LaCesa noted that was correct.

Mr. Lucas noted that you have the Zoning Hearing Board decision from April 24, 2008, from the former Geo's site, that was granted a variance for a freestanding sign and it was for 71 square feet. Mr. LaCesa stated that was correct so this sign would be smaller in sign face than that sign. Mr. Lucas questioned what is the importance of this sign at this location is. Mr. LaCesa noted that it is unique in that this location is off of I-83 and folks getting off of I-83 and traveling west on Union Deposit Road need to be able to get over to the left lane, to be able to make that decision, to identify the price of fuel, and identify that Sheetz has diesel in order to get over safely and enter into the facility. He noted that they would have to make a left from Briarsdale Road to get into this facility. He noted that the driveway is right-in and right-out and it is unique in that sense that the people need to identify it safely to make their move before they get to the intersection.

Mr. Lucas noted for the traffic headed eastbound on Union Deposit Road, will the building be blocked by the Metro Bank and Wendy's Restaurant. Mr. LaCesa noted that the line of sight traveling towards I-83 or to the east would be blocked by the Metro Bank so it would be important to have a sign that you could see to make the right turn into the right-in, right-out

driveway before you get to the facility. He noted that the sign size and height is important because we have it equal to the setback so the sign sets back into the property to conform to the Township's ordinance for setbacks.

Mr. Lucas noted on the site plan exhibit which is the first one under Exhibit A, it shows the pole sign identified in the upper right hand corner in the landscape area outside the curb line. Mr. LaCesa answered that was correct. Mr. Lucas noted in looking at that, the building is in the lower left hand corner, and to the east of that on Briarsdale Road is where the fuel pumps with the canopy overtop will be located. Mr. LaCesa answered that was correct. Mr. Lucas questioned if the canopy was connected to the building. Mr. LaCesa answered that it is not.

Mr. Lucas questioned if there were five fuel pumps at that location. Mr. LaCesa answered that there are five fuel pumps for ten vehicles to pump gas at one time. Mr. Lucas noted for the third drawing, it shows the canopy and when you discuss the canopy, there are five fuel pumps with the canopy facing towards Briarsdale Road, with the lower end facing at an angle towards Union Deposit Road. Mr. LaCesa answered that was correct.

Mr. Lucas noted that you are proposing a sign on the canopy facing towards Briarsdale Road in the front which would be shown on top of side B. Mr. Freeburn questioned Mr. Lucas if he was proceeding to the second variance request. Mr. Lucas answered, yes, second item, the gas canopy sign.

Mr. Freeburn noted before you move to the next sign, does anyone on the Board have any questions relative to the large sign. He noted that there are so many variances that he is afraid that a Board member might forget a question that he or she could have relative to all the variances. He questioned if anyone had questions relative to the pole sign, the free standing sign that they are proposing.

Mr. Staub questioned what would happen to the Marriot Sign that is closer to the corner than the free standing sign. Mr. LaCesa noted that he will get to that later in the presentation. He noted that sign will stay in place and Mr. Lucas will address that later on in the presentation. He noted that the landlord owns the hotel behind him and that is part of the situation... Mr. Lucas noted if you would look in the packet with the application, Exhibit D is a photograph of that sign and in the new packet that... Mr. Freeburn noted that it is the Fairfield Inn sign. Mr. Lucas noted that the new packet provides additional exhibits, noting that Exhibit H is the Board's decision from 1999 that denied a free standing sign on the Fairfield Inn sign, if it was moved to the corner Union Deposit and Briarsdale Roads. He noted since he owned both properties, Mr. Dommel was able to get a variance, moving that sign as a directional sign to the corner for traffic to turn left off of Union Deposit Road. He noted that it was authorized before as an off premises sign by the 1999 decision.

Mr. Sirb questioned what the sign's difference was in relation to the current free standing sign. Mr. LaCesa noted that the current Your Place sign is approximately 22 feet high and Sheetz is proposing a 20 foot sign. He noted that the approximate sign face is 180 square feet on

the one side, and Sheetz is proposing less than 70 feet. He noted that his calculations show that he would be reducing the nonconformity by 114 square feet or by 63%. Mr. Sirb questioned the position of the free standing sign, will it be in the general area of the free standing sign. Mr. LaCesa answered that it will be very similar at the intersection. Mr. Sirb questioned if it would be a dual sided sign with Sheetz on both sides. Mr. LaCesa answered yes so traffic driving in both directions can see the name. Mr. Sirb questioned if it would say Sheetz and the gas prices similar to what was done at the Linglestown Road. Mr. LaCesa answered that it would be similar. Mr. Lucas noted this is what is shown on the exhibit in the packet, and the display that he was showing was an enlarged version of what was contained in the packet.

Mr. Freeburn noted that the variance for the free standing sign is the amount of area... Mr. Lucas noted that 40 square feet is permitted and Sheetz is asking for 66 square feet. He noted that the height is 20 feet high along Union Deposit Road. He noted that there is a different height for the sign along Allentown Boulevard. Mr. Sirb noted that the maximum area is... Mr. Lucas noted that it is a 26 foot variance; whereas, for the former Geo's site, the sign went up to 71 square feet. Mr. Freeburn questioned if that was Exhibit E. Mr. Lucas noted that the decision from April 25, 2008, Docket 1244, is Exhibit E. Mr. Staub noted that the existing Your Place sign is 22 feet high. Mr. LaCesa answered that it is 22 feet high and approximately 180 square feet. He noted that since it is a corner lot, he would be allowed two free standing signs for 40 square feet each; however, he is asking for one free standing sign, a little less than 70 square feet. He explained that one sign will work if he can position it correctly with the proper face.

Mr. Freeburn noted that the signs you reference in exhibit C for the other properties, he questioned Ms. Moran if those signs predate the sign ordinance. Ms. Moran questioned if Mr. Freeburn meant the Your Place sign. Mr. Freeburn answered the McDonalds, Wendy's and all the other signs. Ms. Moran noted that they do predate the sign ordinance. Mr. Lucas noted that the Lowe's sign was 1999, but he did not recall if he had to get a sign variance for that one. He noted that McDonalds has been there for quite a while as well as the Gulf Station sign. He noted that the Wendy's is located in Susquehanna Township. He explained that he wanted to show the character of the neighborhood. He noted that there is no neighborhood residential use, just what the other commercial uses are like.

Mr. Freeburn questioned if the applicant is entitle to the non-conformity of the prior sign. He noted that the current sign is 22 feet high and it is really big. Mr. Turner answered if Sheetz chose to; they could keep that same structure and reface it but once the structure comes down the non conformity is lost with it.

Mr. Freeburn noted that the applicant suggests that he is entitled to two free standing signs at 40 square feet each; however he is proposing one free standing sign at 66 square feet. Mr. LaCesa answered that was correct. Mr. Freeburn questioned Ms. Moran if they would be entitled to two free standing signs. Ms. Moran answered that each road frontage is entitled to one free standing sign. Mr. Sirb noted that it would not make sense to put a sign on Briarsdale Road.

Mr. Freeburn noted if the Zoning Hearing Board would grant this variance, Sheetz would give up its right to another free standing sign. Mr. LaCesa answered yes. Mr. Lucas noted that you could position a sign on Briarsdale Road closer to the intersection and put the sign on Union Deposit Road closer to the Metro Bank for more visibility to the west and utilize both signs, but the decision was made to go with just one sign, a little larger and located at the corner.

Mr. Freeburn questioned if anyone had any questions on the free standing sign before he moves on to the next variance. Mr. Lucas noted that he was trying to keep the flow moving. Mr. Freeburn noted that he appreciated that but he knew he would forget his questions if he did not ask them at this time.

Mr. Sirb requested Mr. Lucas to discuss the canopy signs. Mr. Lucas noted that the canopy sign, Exhibit F contains the definitions in the ordinance for a canopy sign and also for a canopy sign service station dispensing fuel for what this is. He noted that is the section he is applying for. He noted that it permits a canopy sign on three sides, 25 square foot each. He noted that the application is for 2 canopy signs, 35.5 square feet each. He noted under the ordinance he believes he could get 75 square feet in three signs and he is asking for two signs at 71 square feet. He noted that the original packet, it is shown as Exhibit A.

Mr. Lucas questioned Mr. LaCesa if this is a diagram of the canopy. Mr. LaCesa showed where Union Deposit Road was on the exhibit. Mr. Lucas noted that the long area of the canopy faces Briarsdale Road. Mr. LaCesa answered that was correct. Mr. Lucas noted that the one short end faces Union Deposit, at an angle at that location. Mr. LaCesa answered yes. Mr. Lucas noted that the other side faces towards the Fairfield Inn. Mr. LaCesa answered yes.

Mr. Lucas noted that Briarsdale Road is not a square key intersection with Union Deposit Road. He noted that the canopy is generally facing north and east. He noted that the long end faces towards the McDonalds' or Briarsdale Road. He questioned where did Mr. LaCesa propose to place the signs. Mr. LaCesa answered that he would propose it in the middle of the large run of canopy. He proceeded to show a picture of what it would look like. He noted that the area is red with the exception of the total area of the Sheetz logo, noting that each print is 35.5 square feet for a total of 71 square feet. Mr. Sirb questioned if there would be two Sheetz logo's similar to the ones we have seen before. Mr. Freeburn questioned if it would be on the end facing Briarsdale Road and the other end facing Union Deposit Road. Mr. Lucas noted that the variance request is to have two, with each being 10.5 square foot larger.

Mr. Sirb questioned what is allowed under the current ordinance. Ms. Moran answered, under the current ordinance, they could have three. Mr. Freeburn questioned Mr. LaCesa if you are granted the variance would you give up your right to the third sign. Mr. LaCesa answered that is correct, allowing him to go with two signs that are slightly larger than allowed rather than three smaller signs.

Mr. Staub questioned how the two canopy signs would compare to the Sheetz's Allentown Boulevard store. Mr. Lucas noted if you look to Exhibit E, the last page, it had two canopy signs at 51 square feet each so these are about 15 square feet smaller for each one. He

noted that Sheetz decided that they want to go lower than the previously approved signage at the other stores. Mr. Freeburn questioned if the drawings were to scale. Mr. Lucas noted that he would have to have Mr. Soyka answer that question. Mr. Soyka answered that it is to scale.

Mr. Lucas noted for the wall sign, where are the Sheetz logo sign on the top facing Union Deposit Road. Mr. LaCesa answered that the top faces Union Deposit Road and the second one would face Briarsdale Road. Mr. Lucas noted if you look at the building from Union Deposit Road, it would be to the left side facing Briarsdale Road. He requested Mr. LaCesa to describe what the signs are. Mr. LaCesa answered that they are the Sheetz logos to draw your attention to the entrance to the building. Mr. Lucas questioned if they are very similar to the ones on the canopy. Mr. LaCesa answered that they are very similar to the ones on the canopy, just made up of a different material and a different size. Mr. Lucas noted that the sign over the doors, the one facing Union Deposit Road... Mr. LaCesa pointed to the sign facing Union Deposit Road where the vestibule and entrance way are located, noting that there is an additional entrance facing the pumps and canopy and Briarsdale Road. Mr. Lucas explained that these logos are on a canopy over the doors. Mr. LaCesa answered that was correct as they are not up against the building; they are on a very nice architectural feature over the doorway.

Mr. Sirb questioned where the two Sheetz signs, the MTO signs, and little coffee sign would be located. Mr. LaCesa noted that this is a new feature for Sheetz. He noted that there are signs over both doors and one additional sign on each side to make up the four signs. He noted that the fifth sign is another Sheetz logo over a door in the back of the building. He noted that Sheetz started to install back doors into the facility to provide more parking up against the building. He noted that it is unique and there are none in the Township. He noted that Sheetz is now going to a third exit or entrance to the building. He noted that it would face the Fairfield Inn and there is parking up against the building. He suggested that the people who would use that entrance would be coming from the Industrial Park using the Briarsdale Road driveway. He noted because it is a new feature we feel that we need the fifth sign. He noted that many people would not know that there is a back door.

Mr. Sirb questioned if the fifth sign would be similar in size. Mr. LaCesa answered that it is exactly the same. He noted that we have faux-windows, they are not actual window, they are boxed windows, and they are used to make the back of the building look like the front. He noted that the side of the building that faces the bank has nothing on that side.

Mr. Lucas noted, about those box windows, they are actually a glass window that is boxed from the inside. He questioned what do you normally put inside those windows. Mr. LaCesa noted if the Township did not have the Zoning Ordinance he would have put pictures of our food all through those windows, but we realize that those are signs and the Township has an ordinance that would prohibit that. He noted that it will be simple red and green squiggles in that space. He noted that three sides of the building will look very nice.

Mr. Lucas noted if you look at the locations it shows the signage with the one on the awning. He questioned if the awning serves as a protective cover over the door. Mr. LaCesa answered that was correct. Mr. Lucas noted that the sign was above that.

Mr. Lucas noted that these are shown in the new drawings that Mr. Soyka did and he presented this evening. Mr. Soyka noted that the calculations signify the area of the wall itself and how much of that wall is signed. He noted the ordinance would have allowed much more but the percentage for the back wall it is 1% of the wall. Mr. Lucas noted that you can't exceed 10% of the wall. Mr. Soyka noted that the front side has a 2.5% frontage to include both signs and with the two signs he is at 2.6%.

Mr. Lucas noted that the variance request is to have a fifth sign. He noted that Sheetz is allowed to have two signs on two sides and he is asking for a fifth sign on the third side.

Mr. Freeburn questioned if the applicant is willing not to increase the signage space for the sign enclosures. He questioned if Sheetz is keeping the dimensions that the signs are, otherwise they would have to apply for another variance. Mr. LaCesa answered that was correct.

Mr. Sirb noted that there are three Sheetz signs on the canopy, two Sheetz sided Sheetz gas sign and five building signs. He noted that no one should be having a hard time finding this place.

Mr. Soyka noted that the building designates the entranceways. Mr. Sirb noted when you look at it you have the Sheetz logo everywhere.

Mr. Lucas noted that the building design has changed from what you were doing six or seven years ago. Mr. LaCesa noted that it has drastically changed, noting that he has been trying to be very strategic in where to place these signs. He noted that folks drive down Industrial Park on Briarsdale Road and many of the people will be the same everyday but some might be people who visit on business. He noted because the driveway is off premises and it is a shared driveway with the Fairfield Inn, he tried to place the signs so the folks can identify the Sheetz as well. He noted that he tried not to go with the Las Vegas packet, trying to place the signs as architectural features to break up big walls of brick.

Mr. Lucas noted that the idea of brick and stone was a recent concept to Sheetz. Mr. LaCesa noted that Sheetz is really focused on food as we are unable to control the gasoline market, so we have spent a lot of money in designing the building, noting that we don't attach the canopy to the building as we don't want that to be the dominate feature anymore. He noted that it is a much softer look that what we used to do.

Mr. Lucas noted that the last variance is for instructional signs. He noted that the definition is found in Exhibit G that was handed out tonight. He noted that it is a directional sign on sight to get you to where you want to go. He noted that the client's request is for the canopy column. Mr. LaCesa noted that he is referring to the auto diesel flag. He noted that it does not advertise anything, but it allows a motorist that gets on the lot to identify which dispense has the auto-diesel fuel. He noted that it is not available at every dispenser. Mr. Sirb noted that there is normally only one dispenser. Mr. LaCesa noted that might be the case for the Sheetz by Bass Pro on Paxton Street. He noted that he has gone back to the older stores to make the change to have more than one place to dispense it because the demand for the diesel fuel is really high

now. He noted that the American car makers are getting into using diesel fuel as it is a cleaner burn and is a little more expensive but you can drive further. He noted that Sheetz will have dispensers for auto-diesel on the ends of the canopy and once you get on the lot, people need to be able to view the flags to know where to go. Mr. Sirb questioned if there would be two green flags. Mr. LaCesa answered that there are four flags, one on each side. Mr. Freeburn noted that the variance request is for height. Mr. LaCesa answered that was correct and the reason for that is if you keep the flags as low as they are required, the flags won't be there very long as people will damage them. Mr. Lucas noted that the Township has a four foot height requirement that would be similar to the Fairfield Inn sign. Mr. LaCesa noted that people that are driving tend to look higher for signage.

Mr. Lucas noted that he believes that he does not need a permit for having a fifth instructional sign as we he was able to find the 1999 decision; however, if the Zoning Hearing Board thought that was not sufficient to have the fifth sign with the four diesel flags then he would have to ask for that variance as an alternate. He noted that the client feels that the Fairfield Inn sign is an instructional sign

Mr. Freeburn noted that Mr. Hansen is sitting in this evening for Mr. Dowling.

Mr. Staub questioned where you are in the land development approval process. Mr. Lucas answered that he obtained the conditional use approval for an auto service station on March 21, 2012 and land development approval on May 15, 2012.

Mr. Soyka noted that the only remaining item is the approval of a sewer connection permit. He noted once that is done and paid for then he could record the plan. He noted that the building plans have been approved but they can't issue a building permit until the plan is recorded.

Mr. Staub noted that he applauds Mr. Soyka for getting the approval given how busy that Briarsdale and Union Deposit Roads intersection is. He noted that he travels it very much and it is a very difficult intersection, especially the southern way on Briarsdale Road with the McDonalds and Fairfield Inn. Ms. Moran noted that Sheetz is making an improvement to the intersection. Mr. Staub questioned if that was part of the approval. Ms. Moran answered yes.

Mr. Soyka explained that Sheetz is adding a turn lane at that intersection, widening it out so there is an exclusive left turn, thru turn and right turn coming out of Briarsdale Road, widening Briarsdale Road across our frontage and lining up our driveway with the McDonalds. He noted that the Your Place driveway is moving further away from the intersection in the southern direction.

Mr. Freeburn questioned if anyone in the audience wished to be heard on this application. No response was given.

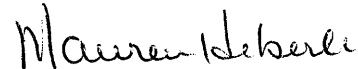
Mr. Freeburn noted that the Zoning Hearing Board has 45 days in which to render a decision on Docket No. 1331.

Mr. Sirb made a motion to approve Docket 1331 as submitted. Mr. Freeburn noted the following amendments to the motion. For the free standing sign that Sheetz is willing to give up the second free standing sign; and with regard to the canopy, that they will give up the right to a canopy sign on the third side; and with regard to the wall signs, that it be granted conditioned on an agreement not to expand the proposed wall sign to larger sizes without seeking a variance. Mr. Sirb noted that he accepted the mentioned amendments to his motion. Mrs. Cate seconded the motion.

Mr. Turner called for a roll call vote: Mr. Hansen, aye; Mr. Staub; aye; Mr. Sirb, aye; Mrs. Cate, aye, and Mr. Freeburn, aye. The variance was granted.

The hearing ended at 7:50 p.m.

Submitted by:


Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
APPLICATION OF : TOWNSHIP ZONING HEARING BOARD
SHEETZ, INC. : DAUPHIN COUNTY, PENNSYLVANIA
: DOCKET NO. 1331

DECISION GRANTING VARIANCES

The applicant seeks variances from sign regulations in connection with a proposed convenience store. A hearing on the application was held on February 28, 2013.

Facts

1. The applicant and proposed lessee of the property in question is Sheetz, Inc. of 5700 Sixth Avenue, Altoona, Pennsylvania 16602. The applicant was represented at the hearing by Mike LaCesa, Director of Real Estate, Brian Soyka, Engineering and Permit Manager, and Ronald Lucas, Esquire. The property is owned by Dommel Family Limited Partnership.

2. The property in question consists of an irregularly shaped parcel located on the southwest corner of Union Deposit Road and Briarsdale Road and is zoned Commercial, C-1.

3. The parcel is improved with a commercial building last used as a restaurant. The applicant intends to demolish the existing building and to redevelop the site as a convenience store. A building would be erected in the southwest corner of the lot and gasoline pumps under a canopy would be installed on the eastern portion of the lot.

4. The applicant intends to remove the existing 180 square foot freestanding sign and to replace it with a new 65.67 square feet freestanding sign at a height of 20 feet. The sign would be setback approximately 105 feet from the cartway.

5. The applicant proposes to erect two signs on two sides of the proposed fuel island canopy. Each sign would be 35.5 square feet, with one facing north and one facing east.

6. The applicant proposes to erect five wall signs on the proposed building. There would be three 21.63 square feet "Sheetz" awning signs, one MTO sign of 21.47 square feet and one wall sign of 16.78 square feet. One of the "Sheetz" signs would be erected on a third side of the building (the south face) to identify a rear entrance. In addition, the applicant proposes four instructional signs identifying auto diesel pumps. These signs would be located on the canopy support columns at a height of ten feet.

7. Notice of the hearing was posted and advertisement made as required by the ordinance.

8. No one other than the applicant appeared to testify either in favor of or against the proposed variance.

Conclusions

1. Article 714.A of the ordinance limits freestanding signs to 40 square feet. The same section allows canopy signs on three sides with a maximum area of 25 square feet per sign. Section 714.A limits wall signs to two per side with a maximum of two sides per building, and it limits instructional signs to four feet in height. The proposed sign package would violate these sections of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall

be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of its corner location on a very wide street. The traffic configuration requires that a motorist identify the site prior to entering the intersection when approaching from the east. This requires a sign larger than the permitted area to allow the safe identification of the site. In addition, traffic approaching from multiple locations requires the identification of the site from multiple directions. Further, the multiple entrances to the building reasonably requires signs on three building faces.

4. Granting the variances will not alter the essential character of the neighborhood nor impair surrounding property values. The pole sign is smaller than the existing sign and is comparable to or smaller than other signs in the district. The requested wall signs and canopy signs are smaller in aggregate area than the signs allowed by the ordinance. The impact of the requested informational signs is negligible and their elevation is reasonably necessary to allow the safe identification of the diesel islands.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variances requested should be and are hereby granted allowing the erection of the proposed sign package on the following conditions:

- a) no second freestanding sign shall be erected on the site;
- b) no third canopy signs shall be erected;

c) no additional wall signs beyond those identified in the application shall be erected.

In all other respects the signs shall be erected in strict conformity with the plans and testimony submitted to the Board.

Date: 3/21/13

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn

Jeffrey W. Staub

Gregory F. Sirb

Sara Jane Cate

Allen Hansen

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of an addition with a rear yard setback of four feet in strict accord with the plans and testimony submitted to the Board.

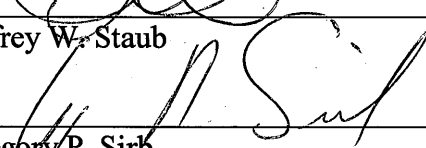
Date: 3/8/13

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn



Jeffrey W. Staub



Gregory P. Sirb



Sara Jane Cate



Allen Hansen

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of February 28, 2013

Members Present

Richard Freeburn
Jeffrey Staub
Gregory Sirb
Sara Jane Cate
Alan Hanson

Also in Attendance

James Turner
Dianne Moran

Docket 1332

Applicant: Union Deposit Properties

Address: 4200 Union Deposit Road
Harrisburg, PA 17111

Property: 4200 Union Deposit Road
Harrisburg, PA 17111

Interpretation: Article 307. A dimensional requirement in the Commercial General District. Minimum Front Yard Setback equals 30 feet, except 50 feet where off-street parking will exist between the principal building and an arterial street. The applicant proposed medical office building will encroach into the 50 feet required front yard setback.

Article 804.C.1-5 Landscaping – Street Trees. As part of the creation of a new land development plan, deciduous shade street trees shall be planted between such lot lines, building and/or parking area, and any adjacent public street(s). Currently there are eight trees along Old Union Deposit Road.

Grounds: Article 307.A and Article 804.C.1-5 of the Lower Paxton Township Zoning Ordinances pertains to this application.

Fees Paid: January 31, 2013

Property Posted: February 19, 2013

Advertisement: Appeared in The Paxton Herald on February 13, 2013 and February 20, 2013.

The hearing began at 8 p.m.

Mr. Freeburn noted that Mr. Staub was reclosing himself from the hearing. Mr. Staub explained that he has a business relationship with the property owner. Mr. Freeburn noted that Mr. Watson Fisher would act as the alternate for Mr. Staub and noted that Mr. Allen Hansen remains on the Board.

Mr. Freeburn noted that Ms. Moran was sworn in previously.

Mr. Brian Evans provided reduced copies of the existing condition plan and the proposed condition plan.

Mr. Freeburn questioned who was present for applicant. Mr. Brian Evans, Evans Engineering, Inc at 2793 Old Post Road in Harrisburg, Pa and he explained that he is the civil site engineer for the project. Mr. Paul Williams noted that he is with AP. Williams, the contractor and developer for the plan. Mr. Freeburn swore in Mr. Brian Evans and Mr. Paul Williams.

Mr. Freeburn questioned if all fees have been paid for the hearing. Ms. Moran noted that the fees were paid on January 31, 2013 and the hearing was posted in The Paxton Herald on February 13 and 20, 2013. She noted that the property was posted on February 19, 2013.

Mr. Freeburn questioned what codified ordinance pertains to the application. Ms. Moran answered Article 307. A, dimensional requirement in the Commercial General District. Minimum Front Yard Setback equals 30 feet, except 50 feet where off-street parking will exist between the principal building and an arterial street. The applicant proposes the construction of a medical office building that will encroach into the 50 feet required front yard setback.

Ms. Moran noted that Article 804.C.1-5 Landscaping – Street Trees. As part of the creation of a new land development plan, deciduous shade street trees shall be planted between such lot lines, building and/or parking area, and any adjacent public street(s). Currently there are eight trees along Old Union Deposit Road.

Mr. Freeburn noted that it is customary for the Board to enter copies of the application and site plan as exhibits and he questioned Mr. Evans if he had any objections to this. Mr. Evans answered no.

Mr. Freeburn requested that applicant to tell the Board what he wants to do and why the variance should be granted.

Mr. Evans noted the property is located at the old Evergreen Buffet restaurant, formerly known as the Bonanza Restaurant. He noted that the place has been sitting empty for several years with his client trying to find a use for the space based upon the condition of the building and the configuration of the lot to reuse existing facilities. He noted that he has a potential user who would require a new building as the existing building is 5,850 square feet with the proposed building being over 7,500 square feet. He noted that there is very little green space on the property as the site is pretty much developed to the full maximum. He noted that there is

pavement up to or within five feet of the property line and the proposed developer intends to take and rework the property providing a better circulation and movement and increase the green space as a result of the development. He noted in doing so, because of the unique characteristic, the odd shape of the property and how it is wedge down between Union Deposit Road to the south, I-83 ramp to the west and Old Union Deposit Road to the north, it is very difficult to develop this property in strict conformance of the Township ordinance. He noted that he is looking for a dimensional variance to allow the building to sit inside the 50 foot setback from parking between the buildings. He noted that the current building has parking between the front of the building and the front property line and also encroaches within that 50 foot setback. He noted that the recorded setback for the property is 30 feet which is what the property owner had prior to the updated current zoning ordinances and he expects to be able to utilize the property with the same understanding for what he is working with. He noted that he would reduce the number of parking spaces between the building and Union Deposit Road with the proposed development.

Mr. Evans noted that he additionally requests relief from street trees. He noted that there is little space to provide street trees between the property line and the edge of the pavement. He noted that he is surrounded by a sanitary sewer easement on the south which he is unable to place trees in and a series of clear site triangles. He noted if you look at the exhibit of the proposed plan...Mr. Freeburn noted that the Board members can see the clear site triangles. Mr. Evans noted that you don't want to place trees within that area so it makes it very difficult to provide the requested street trees. He noted that he tried to provide additional green space along Union Deposit Road property.

Mr. Evans noted that the request that he is seeking is a minimum possible relief and the plan is within the character of the neighborhood or district in which the property is not located. He noted that it will not substantially or permanently impair the appropriate use or development of the adjacent property.

Mr. Evans noted that he discussed the shape of the property which effects his situation.

Mr. Sirb questioned Ms. Moran if the property is currently non-conforming and they plan to expand the non-conforming use. Ms. Moran answered they will demolish the building and build a new medical building. Mr. Sirb questioned if it would be 2,000 square feet more. Mr. Evans answered 1,200 square feet more.

Mr. Freeburn questioned what the encroached area across the setback is. Mr. Evans answered that it is currently at 46 feet from the property line and he is proposing it to be 37 feet so he is going from a 4 foot variance to a 13 foot variance request. Mr. Sirb questioned if the setback is 50 feet. Ms. Moran noted that they need a 50 foot front yard setback. Mr. Sirb noted that it would be impossible the way it sits.

Mr. Sirb noted that he is confused on the landscaping and tree requirement. He noted that there are eight trees there, are they being kept. Mr. Evans noted that the eight trees are being kept, but he is proposing to remove and relocate or provide a replacement tree for the one pine

tree along Old Union Deposit Road to the rear entrance which is in the clear site triangle. Ms. Cate questioned if all the trees are in that location. Mr. Evans answered that they are all located along Old Union Deposit Road. Ms. Cate noted that they don't look very good. Mr. Evans agreed. Ms. Care suggested that they should all be replaced. Mr. Williams noted from a planning standpoint, he would be happy to put trees wherever it is reasonable. He noted if they are not in good shape he would replace them. Mr. Sirb noted that the eight trees that are there, is that enough under the ordinance. Mr. Evans answered that he would be required to plant 26 trees based upon the linear footage of right-of-way that he has for the property. He noted that the number of trees is based upon one for every 50 feet. He noted because the property fronts on three sides, there is a large amount of property frontage along the right-of-ways. He noted that he is required to plant 26 threes and he currently has eight trees. He noted that he would be happy to take care of the sad looking trees and replace them. He noted that he would replace the one pine tree that he proposed to remove outside the clear site triangle. Ms. Moran noted that 26 trees would be required for the entire lot even though the only portion of the property that is being improved is about 300 square feet. Mr. Evans noted that portion of the lot is about one third of the property, it is .88 acres out of a total lot area of 2.17 acres in size. Mr. Sirb noted that the 26 tree requirement is for the entire property area. Ms. Moran answered yes. Mr. Evans noted since the one building is within the property, the entire property is subject to review by the subdivision by development regulations.

Mr. Freeburn questioned if anyone in the audience wished to be heard on this application. No response was given.

Mr. Freeburn noted that the Board has 45 days to render a decision

Mr. Hansen made a motion to approve the application of Union Deposit Properties, Docket 1332. Ms. Cate stated that she wanted to make an amendment to the motion to include the replacement of the existing trees with new trees. Mr. Hansen agreed. Ms. Cate seconded the motion. Mr. Turner called for a roll call vote: Mr. Fisher, aye; Mr. Hansen; aye; Mr. Sirb, aye; Mrs. Cate, aye, and Mr. Freeburn, aye.

The hearing ended at 8:11 p.m.

Submitted by:



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
UNION DEPOSIT PROPERTIES : DOCKET NO. 1332

DECISION GRANTING VARIANCES

The applicant seeks variances from setback and landscaping requirements in connection with a proposed office building. A hearing on the application was held on February 28, 2013.

Facts

1. The applicant and owner of the property in question is Union Deposit Properties of 750 East Park Drive, Harrisburg, Pennsylvania 17111. The applicant was represented at the hearing by Paul Williams, contractor, and Brian Evans, site engineer.

2. The property in question is located on the north side of Union Deposit Road and consists of an irregularly shaped lot which is roughly triangular in shape. The parcel is improved with several commercial buildings and associated parking areas. The parcel is zoned Commercial, C-1.

3. The applicant proposes to demolish the building at the west end of the lot which was most recently used as a restaurant. In place of the restaurant the applicant proposes to erect a 7,520 square feet office building.

4. The proposed office building would be set back thirty feet from the front right of way line and parking spaces would be created between the building and the property line.

5. In connection with the construction, the applicant is increasing the sanitary sewer easement along the south side of the property. This dedication along with the existence of additional utility rights of way precludes the planting of trees along the right of way.

6. The proposed plan will slightly decrease the impervious coverage on the property.

7. Notice of the hearing was posted and advertisement made as required by the ordinance.

8. No one other than the applicant and its representatives appeared to testify either in favor of or against the proposed variance.

Conclusions

1. Article 307.A of the ordinance requires a minimum front yard setback of thirty feet except where off-street parking will exist between the principal building and an arterial street, where the setback is increased to fifty feet. In addition, Section 804.C.1.5 requires that as part of new land development deciduous shade trees must be placed along public streets. The proposed project would violate these sections of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship not created by the owner consisting of the limited lot area and irregular shape. In addition, the hardship is compounded by the multiple street frontages and utility rights of way which severely limit the developable area.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The proposed construction is comparable to the existing conditions which predate the existing ordinance. Impervious coverage will actually be decreased by the project. Planting trees as required by the ordinance would not be possible given site constraints.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variances requested should be and are hereby granted allowing the erection of a building in strict accord with the plans and testimony submitted to the Board. Relief from street tree landscaping requirements is granted on the condition that the applicant replace the existing eight trees along Old Union Deposit road which are dead or diseased.

Date: 3/21/13

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Richard E. Freeburn

Gregory P. Sirb

Sara Jane Cate

Allen Hansen

Watson Fisher

Board member Staub abstained from participating in this matter.

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of February 28, 2013

Members Present

Richard Freeburn
Jeffrey Staub
Gregory Sirb
Sara Jane Cate
Alan Hanson

Also in Attendance

James Turner
Dianne Moran

Docket 1333

Applicant: Richard and Christine Moyer

Address: 509 Blue Bell Avenue
Harrisburg, PA 17112

Property: 509 Blue Bell Avenue
Harrisburg, PA 17112

Interpretation: Article 403.D.14.B.(2) Residential Accessory Structure or Use.
The maximum total floor areas of all accessory buildings shall be 1,000 square feet in a residential district on a lot less than two acres. The applicant proposes a structure that exceeds this limitation

Grounds: Article 403.D.14.B.(2) of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: January 31, 2013

Property Posted: February 19, 2013

Advertisement: Appeared in The Paxton Herald on February 13, 2013 and February 20, 2013.

The hearing began at 8:13 p.m.

Mr. Freeburn questioned who was present for applicant. Mr. Richard Moyer noted that he was the applicant. Mr. Freeburn swore in Mr. Richard Moyer who resides at 509 Blue Bell Avenue.

Ms. Dianne Moran had been previously sworn in.

Mr. Freeburn questioned if all the fees have been paid for the hearing. Ms. Moran noted that the fees were paid on January 31, 2013 and the hearing was posted in The Paxton Herald on February 13 and 20, 2013. She noted that the property was posted on February 19, 2013.

Mr. Freeburn questioned what codified ordinance pertains to the application. Ms. Moran answered that Article 403.D.14.B.(2) Residential Accessory Structure or Use. The maximum total floor areas of all accessory buildings shall be 1,000 square feet in a residential district on a lot less than two acres. The applicant proposes a structure that exceeds this limitation

Mr. Freeburn noted that it is customary for the Board to enter copies of the application and site plan as exhibits and he questioned Mr. Moyer if he had any objections to this. Mr. Moyer answered no.

Mr. Freeburn requested that applicant to tell the Board what he wants to do and why the variance should be granted.

Mr. Moyer noted that he wants to build a three-car garage that is 40 feet by 32 feet. He noted that it will be 1,280 square feet which is above the 1,000 square feet area. He noted that he wants to build the three-car garage because he is an automotive enthusiast, noting that he works for CJ. Pony Parts as he is very involved with cars.

Mr. Moyer noted that it is slightly larger than normal as he would like to work in the garage and also park his vehicles in the garage, along with the lawn mower. He noted that the extra room would allow him to work on the cars. He noted that it will allow him to use the garage in the winter time to park the family cars so he won't have to deal with the snow and ice.

Mr. Moyer noted that the lot only has the house on it at this time and it is a relatively flat lot that is an acre so the overall size of the garage is not dwarfing the property. He noted that it is a newly constructed house, with no trees in the way that would have to be removed. He noted that he proposed to place the garage between the overhead wires keeping it close to the house so it looks more like a garage instead of extra large building, looking more residential.

Mr. Moyer noted that he has spoken with his surrounding neighbors, showed them the plan and they have all signed the document stating that they have no concerns or objections to the garage or issues with its location.

Ms. Cate noted that the applicant stated that he works for CJ Pony Parts and questioned if he did maintenance and repairs for them. Mr. Moyer answered, not for them, only on his own cars. Ms. Cate questioned if Mr. Moyer does repairs on other people's cars in his garage. Mr. Moyer answered no.

Mr. Sirb questioned if the garage would be heated. Mr. Moyer answered not at this time; however as money allows he would finished and furnish it. He noted that it would not be insulated in the beginning, so it will not be heated at this time.

Mr. Freeburn questioned if you intend to have any plumbing to the garage. Mr. Moyer answered no. He questioned how high the garage doors would be. Mr. Moyer answered that they would be eight foot garage doors. Mr. Freeburn questioned if it would be the standard garage doors. Mr. Moyer answered yes.

Mr. Moyer questioned what type of roof would be used. Mr. Moyer answered that it would be a steel roof with 12 foot high walls, with a standard slope. He noted that it would not be a two-storied building. Mr. Freeburn questioned if it would be a peaked roof. Mr. Moyer answered yes. Mr. Freeburn questioned if it would be shingled. Mr. Moyer answered that it would be tin, aluminum.

Mr. Freeburn questioned if outdoor lighting is proposed. Mr. Moyer answered that he plans to put flood lights on the corner for the front of the building and the parking area in front of the garage.

Mr. Staub questioned if the metal building is a pole building. Mr. Moyer answered that it will be a pole building. He noted that the house is new and he plans on doing a color combination to match the house as it is a light slate color now, so the garage will be the same color and he will trim the side of the garage, around the roof, and around the garage doors in a darker maroon color that will match with the fake shutter on the house.

Mr. Freeburn noted that Mr. Moyer has a big lot. Mr. Moyer answered that it is 220 feet by 210 feet, just over an acre. Ms. Cate questioned if any of the neighbors are close to his land. Mr. Moyer answered that the neighbor on the south side is up the hill 120 feet, and on the side of the garage, it would be 50 feet to Blue Valley Road. He noted directly across from Blue Valley Road is a house that has been abandoned for 15 years. He noted behind the house, 100 feet to the property line is Kay Ross's house which faces in the opposite direction. He noted the side of her house that faces his house is her garage doors.

Mr. Hansen questioned where you propose to store the parts that you would be using to work on. Mr. Moyer answered that they would be in the garage. Mr. Hansen questioned if they would be stored outside. Mr. Moyer answered no. He noted that he is not good with body work so he won't be doing full restoration work nor will cars be sitting outside hidden under a tarp.

Mr. Staub questioned what kind of driveway would be put in to access the garage. He noted that you are planning three garage doors, three bays, and questioned if the driveway will be that wide. Mr. Moyer answered that he planned to line up the driveway to the two right-hand bays, and have them take it out to the third bay. Mr. Staub questioned what would the width be at the street location. Mr. Moyer answered that it would be the width of two garages, 20 to 24 feet. Mr. Staub noted that there is a maximum driveway width requirement. Ms. Moran noted that 24 feet is the maximum width permitted.

Mr. Freeburn noted that Mr. Moyer had secured signatures from his neighbors and he requested to know where the people are located in respect to his property. Mr. Moyer noted that Mr. Tough is across the street from his house; Tim Carroll is up two houses on Blue Valley

Road; Mary Landis, Kathy Landis and Linda Chubb are in the house located to the south side of his house, opposite from the side of his garage; Spigelarger is the first house up Blue Valley Avenue; and since he has submitted his application he has talked to Kay Ross, who is located behind his house. Mr. Staub questioned Mr. Moyer what Ms. Ross's reaction was to his request. Mr. Moyer answered that she didn't say much, she said do what you please, and she was happy that he stopped to talk to her. He noted that her house faces the opposite direction as his garage is at least 100 feet from her property line that goes to her driveway and then her house. He suggested that her house would be 250 feet from the proposed garage.

Mr. Staub noted that professionally he was involved with the property owner who had the property before Mr. Moyer did and when he was in the process of trying to get Township approvals to develop the property, Ms. Ross was not very happy. He noted that she called into the Township numerous times to complain. Mr. Moyer noted that he is not familiar with the previous owner as he bought the house from the people who developed the property. He noted that Ms. Ross had no objections. Mr. Freeburn noted that she would have had an opportunity to appear at the meeting this evening.

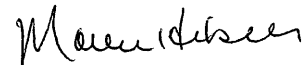
Mr. Freeburn questioned if anyone in the audience wished to be heard on this application. No response was given.

Mr. Freeburn noted that the Board has 45 days to render a decision

Ms. Cate made a motion to approve the application of Richard and Christine Moyer. Mr. Sirb seconded the motion. Mr. Turner called for a roll call vote: Mr. Hansen, aye; Mr. Staub; aye; Mr. Sirb, aye; Mrs. Cate, aye, and Mr. Freeburn, aye.

The hearing ended at 8:27 p.m.

Submitted by:



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
RICHARD AND CHRISTINE : DOCKET NO. 1333
MOYER :

DECISION GRANTING VARIANCE

The applicants seek a variance to allow an accessory garage. A hearing on the application was held on February 28, 2013.

Facts

1. The applicants and owners of the property in question are Richard and Christine Moyer of 509 Blue Bell Avenue, Harrisburg, Pennsylvania 17112.
2. The property in question is located on the east side of Blue Bell Avenue and consists of a rectangular lot with 225 feet of frontage of Blue Bell and 203 feet of frontage on the south side of Blue Valley. The property is zoned Residential, R-2.
3. The property is improved with a two story home located in the southern portion of the lot. The garage would have three standard garage doors with a standard peaked roof. The pole-style building would have colors to match the house. The garage would be used for personal purposes and no commercial activity would take place.
4. The applicants have discussed their proposal with the neighboring property owners who had no objection to the proposal. The nearest house is located a considerable distance away from the proposed garage.
5. Notice of the hearing was posted and advertisement made as required by the ordinance.
6. No one other than the applicant appeared to testify either in favor of or against the proposed variance.

Conclusions

1. Article 403.D.14.B.(2) of the ordinance limits the size of accessory buildings to 1,000 square feet on lots of less than two acres in area. The proposed garage would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of the limited lot area. This prevents the construction of a garage suitable to meet the applicants' needs. Further, the acquisition of additional land to meet the two acre requirement is not feasible as surrounding properties are fully developed.

4. Granting the variance will not alter the essential character of the neighborhood. The garage is still in scale with the house and it will not loom over surrounding properties. There will be no adverse effect upon the public welfare or upon property values.

Decision

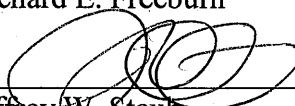
In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is

hereby granted allowing the erection of a 40 feet by 32 feet garage in strict conformity with the plans and testimony submitted to the Board.

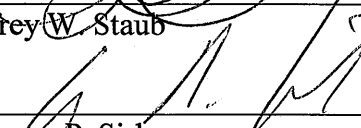
Date: 3/8/13

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn



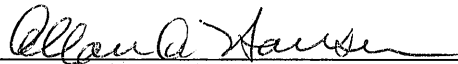
Jeffrey W. Staub



Gregory P. Sirb



Sara Jane Cate



Allen Hansen